

AMENDED IN SENATE JUNE 15, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 999

Introduced by Assembly Member Daly

February 26, 2015

An act to amend ~~Section~~ *Sections 798.56a and 798.61* of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL’S DIGEST

AB 999, as amended, Daly. ~~Abandoned mobilehomes:~~ *Mobilehomes: salvage and disposal.*

The Mobilehome Residency Law governs tenancies in mobilehome parks, ~~including, among other things, imposing~~ *parks and, among other things, authorizes the management of a mobilehome park, under specified circumstances, to either remove the mobilehome from the premises and place it in storage or store the mobilehome on its site. Existing law provides the management with a warehouse lien for these costs and imposes various duties on the management to enforce this lien. Existing law also imposes various duties on the management of a mobilehome park when seeking to sell an abandoned mobilehome and its contents. Existing law requires a court to enter a judgment of abandonment if the criteria for abandonment has been satisfied and no party establishes an interest in the mobilehome at the hearing. Existing law requires the management, under certain circumstances, to obtain a tax clearance certificate from the county tax collector of the county in*

which the mobilehome is located when selling an abandoned mobilehome.

This bill would amend the Mobilehome Residency Law to, *among other things, authorize the management to enforce a warehouse lien and declare a mobilehome as salvage without requiring the management or other person enforcing the lien to obtain a tax clearance certificate. The bill would require a court to enter a judgment of abandonment if, instead, the criteria for abandonment has been satisfied and no party establishes an interest in the mobilehome and tenders all past due rent and other charges.* The bill would authorize a procedure for the management of a mobilehome park to dispose of ~~or sell~~ an abandoned mobilehome and ~~to dispose of or sell~~ its contents without requiring the management to obtain a tax clearance certificate. This bill would require the management to notify the county tax collector in the county in which the mobilehome park is located and the Department of Housing and Community Development that management will *either enforce a warehouse lien and declare the mobilehome as salvage or dispose of* an abandoned mobilehome and its contents pursuant to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.56a of the Civil Code is amended to
2 read:

3 798.56a. (a) Within 60 days after receipt of, or no later than
4 65 days after the mailing of, the notice of termination of tenancy
5 pursuant to any reason provided in Section 798.56, the legal owner,
6 if any, and each junior lienholder, if any, shall notify the
7 management in writing of at least one of the following:

8 (1) Its offer to sell the obligation secured by the mobilehome
9 to the management for the amount specified in its written offer.
10 In that event, the management shall have 15 days following receipt
11 of the offer to accept or reject the offer in writing. If the offer is
12 rejected, the person or entity that made the offer shall have 10 days
13 in which to exercise one of the other options contained in this
14 section and shall notify management in writing of its choice.

15 (2) Its intention to foreclose on its security interest in the
16 mobilehome.

1 (3) Its request that the management pursue the termination of
2 tenancy against the homeowner and its offer to reimburse
3 management for the reasonable attorney's fees and court costs
4 incurred by the management in that action. If this request and offer
5 are made, the legal owner, if any, or junior lienholder, if any, shall
6 reimburse the management the amount of reasonable attorney's
7 fees and court costs, as agreed upon by the management and the
8 legal owner or junior lienholder, incurred by the management in
9 an action to terminate the homeowner's tenancy, on or before the
10 earlier of (A) the 60th calendar day following receipt of written
11 notice from the management of the aggregate amount of those
12 reasonable attorney's fees and costs or (B) the date the mobilehome
13 is resold.

14 (b) A legal owner, if any, or junior lienholder, if any, may sell
15 the mobilehome within the park to a third party and keep the
16 mobilehome on the site within the mobilehome park until it is
17 resold only if all of the following requirements are met:

18 (1) The legal owner, if any, or junior lienholder, if any, notifies
19 management in writing of the intention to exercise either option
20 described in paragraph (2) or (3) of subdivision (a) within 60 days
21 following receipt of, or no later than 65 days after the mailing of,
22 the notice of termination of tenancy and satisfies all of the
23 responsibilities and liabilities of the homeowner owing to the
24 management for the 90 days preceding the mailing of the notice
25 of termination of tenancy and then continues to satisfy these
26 responsibilities and liabilities as they accrue from the date of the
27 mailing of that notice until the date the mobilehome is resold.

28 (2) Within 60 days following receipt of, or no later than 65 days
29 after the mailing of, the notice of termination of tenancy, the legal
30 owner or junior lienholder commences all repairs and necessary
31 corrective actions so that the mobilehome complies with park rules
32 and regulations in existence at the time the notice of termination
33 of tenancy was given as well as the health and safety standards
34 specified in Sections 18550, 18552, and 18605 of the Health and
35 Safety Code, and completes these repairs and corrective actions
36 within 90 calendar days of that notice, or before the date that the
37 mobilehome is sold, whichever is earlier.

38 (3) The legal owner, if any, or junior lienholder, if any, complies
39 with the requirements of Article 7 (commencing with Section

1 798.70) as it relates to the transfer of the mobilehome to a third
2 party.

3 (c) For purposes of subdivision (b), the “homeowner’s
4 responsibilities and liabilities” means all rents, utilities, reasonable
5 maintenance charges of the mobilehome and its premises, and
6 reasonable maintenance of the mobilehome and its premises
7 pursuant to existing park rules and regulations.

8 (d) If the homeowner files for bankruptcy, the periods set forth
9 in this section are tolled until the mobilehome is released from
10 bankruptcy.

11 (e) (1) Notwithstanding any other provision of law, including,
12 but not limited to, Section 18099.5 of the Health and Safety Code,
13 if neither the legal owner nor a junior lienholder notifies the
14 management of its decision pursuant to subdivision (a) within the
15 period allowed, or performs as agreed within 30 days, or if a
16 registered owner of a mobilehome, that is not encumbered by a
17 lien held by a legal owner or a junior lienholder, fails to comply
18 with a notice of termination and is either legally evicted or vacates
19 the premises, the management may either remove the mobilehome
20 from the premises and place it in storage or store it on its site. In
21 this case, notwithstanding any other provision of law, the
22 management shall have a warehouse lien in accordance with
23 Section 7209 of the Commercial Code against the mobilehome for
24 the costs of dismantling and moving, if appropriate, as well as
25 storage, that shall be superior to all other liens, except the lien
26 provided for in Section 18116.1 of the Health and Safety Code,
27 and may enforce the lien pursuant to Section 7210 of the
28 Commercial Code either after the date of judgment in an unlawful
29 detainer action or after the date the mobilehome is physically
30 vacated by the resident, whichever occurs earlier. Upon completion
31 of any sale to enforce the warehouse lien in accordance with
32 Section 7210 of the Commercial Code, the management shall
33 provide the purchaser at the sale with evidence of the sale, as shall
34 be specified by the Department of Housing and Community
35 Development, that shall, upon proper request by the purchaser of
36 the mobilehome, register title to the mobilehome to this purchaser,
37 whether or not there existed a legal owner or junior lienholder on
38 this title to the mobilehome.

39 (2) *Notwithstanding any other provision of law, if the*
40 *management of a mobilehome park obtains title to a mobilehome*

1 *after enforcing the warehouse lien and obtains approval from*
2 *Department of Housing and Community Development to designate*
3 *the mobilehome for salvage, management or any other person*
4 *enforcing this warehouse lien shall not be required to obtain a tax*
5 *clearance certificate, as set forth in Section 5832 of the Revenue*
6 *and Taxation Code, provided that management notifies the county*
7 *tax collector in the county in which the mobilehome is located, as*
8 *well as the Department of Housing and Community Development*
9 *of management's intent to enforce a warehouse lien and apply to*
10 *have the mobilehome designated for salvage. The written notice*
11 *shall be sent to the county tax collector and the Department of*
12 *Housing and Community Development no less than 10 days prior*
13 *to the intended date of the sale to enforce the lien against the*
14 *mobilehome. The notice shall be sent by first class mail, postage*
15 *prepaid.*

16 (f) All written notices required by this section, *except the notice*
17 *in paragraph (2) of subdivision (e),* shall be sent to the other party
18 by certified or registered mail with return receipt requested.

19 (g) Satisfaction, pursuant to this section, of the homeowner's
20 accrued or accruing responsibilities and liabilities shall not cure
21 the default of the homeowner.

22 **SECTION 1.**

23 **SEC. 2.** Section 798.61 of the Civil Code is amended to read:

24 798.61. (a) (1) As used in this section, "abandoned
25 mobilehome" means a mobilehome about which all of the
26 following are true:

27 (A) It is located in a mobilehome park on a site for which no
28 rent has been paid to the management for the preceding 60 days.

29 (B) It is unoccupied.

30 (C) A reasonable person would believe it to be abandoned.

31 (D) *It is not permanently affixed to the land.*

32 (2) As used in this section:

33 (A) "Mobilehome" shall include a trailer coach, as defined in
34 Section 635 of the Vehicle Code, or a recreational vehicle, as
35 defined in Section 18010 of the Health and Safety Code, if the
36 trailer coach or recreational vehicle also satisfies the requirements
37 of paragraph (1), including being located on any site within a
38 mobilehome park, even if the site is in a separate designated section
39 pursuant to Section 18215 of the Health and Safety Code.

1 (B) “Abandoned mobilehome” shall include a mobilehome that
2 is uninhabitable because of its total or partial destruction that
3 cannot be rehabilitated, if the mobilehome also satisfies the
4 requirements of paragraph (1).

5 (C) “Dispose” or “disposal” shall mean the removal and
6 destruction of an abandoned mobilehome from a mobilehome park,
7 thus making it unusable for any purpose.

8 (b) After determining a mobilehome in a mobilehome park to
9 be an abandoned mobilehome, the management shall post a notice
10 of belief of abandonment on the mobilehome for not less than 30
11 days, and shall deposit copies of the notice in the United States
12 mail, postage prepaid, addressed to the homeowner at the last
13 known address and to any known registered owner, if different
14 from the homeowner, and to any known holder of a security interest
15 in the abandoned mobilehome. This notice shall be mailed by
16 registered or certified mail with a return receipt requested.

17 (c) (1) Thirty or more days following posting pursuant to
18 subdivision (b), the management may file a petition in the superior
19 court in the county in which the mobilehome park is located, for
20 a judicial declaration of abandonment of the mobilehome. A
21 proceeding under this subdivision is a limited civil case. Copies
22 of the petition shall be served upon the homeowner, any known
23 registered owner, and any known person having a lien or security
24 interest of record in the mobilehome by posting a copy on the
25 mobilehome and mailing copies to those persons at their last known
26 addresses by registered or certified mail with a return receipt
27 requested in the United States mail, postage prepaid.

28 (2) To dispose of an abandoned mobilehome pursuant to
29 subdivision (f), the management shall also do all of the following:

30 (A) Declare in the petition that the management will dispose of
31 the abandoned mobilehome, and therefore will not seek a tax
32 clearance certificate as set forth in Section 5832 of the Revenue
33 and Taxation Code.

34 (B) Declare in the petition whether the management intends to
35 sell the contents of the abandoned mobilehome before its disposal.

36 (C) Notify the county tax collector in the county in which the
37 mobilehome park is located and the Department of Housing and
38 Community Development of the declaration that management will
39 dispose of the abandoned mobilehome by sending a copy of the
40 petition by first class mail.

1 (d) (1) Hearing on the petition shall be given precedence over
2 other matters on the court's calendar.

3 (2) If, at the hearing, the petitioner shows by a preponderance
4 of the evidence that the criteria for an abandoned mobilehome has
5 been satisfied and no party establishes an interest therein at the
6 ~~hearing~~, *hearing and tenders all past due rent and other charges*,
7 the court shall enter a judgment of abandonment, determine the
8 amount of charges to which the petitioner is entitled, and award
9 attorney's fees and costs to the petitioner. For purposes of this
10 subdivision, an interest in the mobilehome shall be established by
11 evidence of a right to possession of the mobilehome or a security
12 or ownership interest in the mobilehome.

13 (3) A default may be entered by the court clerk upon request of
14 the petitioner, and a default judgment shall be thereupon entered,
15 if no responsive pleading is filed within 15 days after service of
16 the petition by mail.

17 (e) To sell an abandoned mobilehome, the management shall
18 do all of the following:

19 (1) (A) Within 10 days following a judgment of abandonment,
20 the management shall enter the abandoned mobilehome and
21 complete an inventory of the contents and submit the inventory to
22 the court.

23 (B) During this period the management shall post and mail a
24 notice of intent to sell the abandoned mobilehome and its contents
25 under this section, and announcing the date of sale, in the same
26 manner as provided for the notice of determination of abandonment
27 under subdivision (b). The management shall also provide notice
28 to the county tax collector in the county in which the mobilehome
29 park is located and the Department of Housing and Community
30 Development.

31 (C) At any time prior to the sale of an abandoned mobilehome
32 or its contents under this section, any person having a right to
33 possession of the abandoned mobilehome may recover and remove
34 it from the premises upon payment to the management of all rent
35 or other charges due, including reasonable costs of storage and
36 other costs awarded by the court. Upon receipt of this payment
37 and removal of the abandoned mobilehome from the premises
38 pursuant to this paragraph, the management shall immediately file
39 an acknowledgment of satisfaction of judgment pursuant to Section
40 724.030 of the Code of Civil Procedure.

(2) Following the judgment of abandonment, but not less than 10 days following the notice of sale specified in paragraph (1), the management may conduct a public sale of the abandoned mobilehome, its contents, or both. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(3) Within 30 days of the date of the sale of the abandoned mobilehome and its contents, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to paragraph (1).

(4) The management shall provide the purchaser at the sale of an abandoned mobilehome with a copy of the judgment of abandonment and evidence of the sale, as shall be specified by the Department of Housing and Community Development or the Department of Motor Vehicles, which shall register title in the abandoned mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

(f) To dispose of an abandoned mobilehome, the management shall do all of the following:

(1) (A) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court.

1 (B) During this period the management shall post and mail a
2 notice of intent to dispose of the abandoned mobilehome and its
3 contents under this section, and announcing the date of disposal,
4 in the same manner as provided for the notice of determination of
5 abandonment under subdivision (b). The management shall also
6 provide notice to the county tax collector in the county in which
7 the mobilehome park is located and the Department of Housing
8 and Community Development.

9 (C) At any time prior to the disposal of an abandoned
10 mobilehome or its contents under this section, any person having
11 a right to possession of the abandoned mobilehome may recover
12 and remove it from the premises upon payment to the management
13 of all rent or other charges due, including reasonable costs of
14 storage and other costs awarded by the court. Upon receipt of this
15 payment and removal of the abandoned mobilehome from the
16 premises pursuant to this subparagraph, the management shall
17 immediately file an acknowledgment of satisfaction of judgment
18 pursuant to Section 724.030 of the Code of Civil Procedure.

19 (2) Following the judgment of abandonment, but not less than
20 10 days following the notice of disposal specified in paragraph
21 (1), the management may dispose of the abandoned mobilehome.

22 (3) (A) Within 30 days of the date of the disposal of an
23 abandoned mobilehome and its contents, the management shall
24 submit to the court, the county tax collector in the county in which
25 the mobilehome park is located, and the Department of Housing
26 and Community Development a statement that the abandoned
27 mobilehome and its contents were disposed with supporting
28 documentation.

29 (B) Within 30 days of the date of the disposal of an abandoned
30 mobilehome or the date of the sale of its contents, whichever date
31 is later, the management shall submit to the court, the county tax
32 collector in the county in which the mobilehome park is located,
33 and the Department of Housing and Community Development an
34 accounting of the moneys received from the sale and the disposition
35 of the money and the items contained in the inventory submitted
36 to the court pursuant to paragraph (1) and a statement that the
37 abandoned mobilehome was disposed with supporting
38 documentation.

1 (4) *The management shall obtain a salvage title from the*
2 *Department of Housing and Community Development prior to*
3 *disposal.*

4 (g) Notwithstanding any other law, the management shall not
5 be required to obtain a tax clearance certificate, as set forth in
6 Section 5832 of the Revenue and Taxation Code, to ~~either dispose~~
7 of an abandoned mobilehome and ~~sell its contents, or dispose of~~
8 ~~an abandoned mobilehome and its contents.~~ *contents pursuant to*
9 *subdivision (f). However, any sale pursuant to this section shall*
10 *be subject to the tax clearance certificate requirements of Section*
11 *18092.7 of the Health and Safety Code.*